

§ 19.73

§ 19.73 Emergency variations from requirements.

The appropriate TTB officer may approve construction, equipment, and methods of operation other than as specified in this part, where he finds that an emergency exists and the proposed variations from the specified requirements are necessary, and the proposed variations—

(a) Will afford the security and protection to the revenue intended by the prescribed specifications;

(b) Will not hinder the effective administration of this part; and

(c) Will not be contrary to any provisions of law.

Variations from requirements granted under this paragraph are conditioned on compliance with the procedures, conditions, and limitations with respect thereto set forth in the approval of the application. Failure to comply in good faith with such procedures, conditions, and limitations shall automatically terminate the authority for such variations and the proprietor thereupon shall fully comply with the prescribed requirements of regulations from which the variations were authorized. Authority for any variation may be withdrawn whenever in the judgment of the appropriate TTB officer the revenue is jeopardized or the effective administration of this part is hindered by the continuation of such variation. Where the proprietor desires to employ such variation, he shall submit a written application to do so to the appropriate TTB officer. The application shall describe the proposed variations and set forth the reasons therefor. Variations shall not be employed until the application has been approved.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1353, as amended, 1395, as amended (26 U.S.C. 5178, 5552))

§ 19.74 Disaster exemptions.

The appropriate TTB officer may, whenever he finds that it is necessary or desirable, by reason of disaster, temporarily exempt the proprietor of any plant from any provisions of the internal revenue laws and this part relating to spirits, except those requiring the

27 CFR Ch. I (4-1-08 Edition)

payment of tax on spirits, to the extent he may deem necessary or desirable.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1397, as amended (26 U.S.C. 5562))

§ 19.75 Assignment of officers and supervision of operations.

(a) *General.* The appropriate TTB officer may assign such number of TTB officers to distilled spirits plants and utilize controls (including the use of Government locks and seals) as necessary to maintain supervision of operations conducted at such plants. When supervision is necessary:

(1) The appropriate TTB officer may require a proprietor to delay any distilled spirits operation so that it may be conducted in the presence of an appropriate TTB officer; and

(2) The appropriate TTB officer may require the proprietor to submit a schedule of operations to an appropriate TTB officer.

(b) *Hours of operation.* When operations at a distilled spirits plant are to be conducted in the presence of an appropriate TTB officer, such operations: (1) Shall not be conducted on Sunday unless specifically authorized by the appropriate TTB officer in each instance on the showing of an emergency; and (2) Shall be conducted during an 8-hour period between 7 a.m. and 5 p.m. unless, pursuant to the proprietor's application the appropriate TTB officer authorizes the performance and supervision of operations during other hours. The appropriate TTB officer, in administering this provision, shall not restrict such operation or function to a greater extent than did the provisions of internal revenue law and regulations on June 30, 1959.

(c) *Notification of supervision.* (1) When it is determined that supervision of plant operations is necessary, the appropriate TTB officer shall notify the proprietor of the extent of TTB supervision.

(2) If supervision of a distilled spirits plant was not terminated as of December 31, 1979, notification is not necessary for continued supervision.

(d) *Withdrawal of supervision.* The appropriate TTB officer shall notify the

proprietor when TTB supervision of plant operations is to be withdrawn.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1395, as amended (26 U.S.C. 5553); sec. 806, Pub. L. 96-39, 93 Stat. 279 (26 U.S.C. 5201, 5202))

§ 19.76 Allowance of remission, abatement, credit or refund of tax.

The appropriate TTB officer is authorized to allow claims for remission, abatement, credit, and refund of tax, filed under the provisions of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended (26 U.S.C. 5008))

§ 19.77 Installation of meters, tanks and other apparatus.

The appropriate TTB officer is authorized to require the proprietor to install meters, tanks, pipes, or any other apparatus which the appropriate TTB officer deems advisable for the purpose of protecting the revenue. Any proprietor refusing or neglecting to install such apparatus when so required shall not be permitted to conduct business.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1395, as amended (26 U.S.C. 5552))

§ 19.78 Approval of qualifying documents.

The appropriate TTB officer is authorized to approve, except as otherwise provided in this part, all qualifying documents, including bonds and consents of surety, required by this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended, 1394, as amended (26 U.S.C. 5172, 5551); sec. 805, Pub. L. 96-39, 93 Stat. 275, 276 (26 U.S.C. 5171, 5173))

§ 19.79 Discontinuance of storage facilities.

When the appropriate TTB officer finds that any facilities for the storage of spirits on bonded premises are unsafe or unfit for use, or that spirits stored are subject to great loss or wastage, he may require the discontinuance of the use of such facilities and require the spirits contained therein to be transferred to such other storage facilities as he may designate. Such transfer shall be made at such time and under such supervision as the appropriate TTB officer may require and the expense of the transfer shall be paid by

the owner or the warehouseman of the spirits. Whenever the owner of such spirits or the warehouseman fails to make such transfer within the time prescribed or to pay the just and proper expense of such transfer, as ascertained and determined by the appropriate TTB officer, such spirits may be seized and sold in the same manner as goods sold on distraint for taxes, and the proceeds of such sale shall be applied to the payment of the taxes due thereon and the cost and expense of such sale and removal, and the balance shall be paid over to the owner of such spirits.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1369, as amended (26 U.S.C. 5236))

[T.D. ATF-198, 50 FR 8464, Mar. 1, 1985; 50 FR 23410, June 4, 1985]

§ 19.81 Right of entry and examination.

Any appropriate TTB officer may at all times, as well by night as by day, enter any distilled spirits plant, or any other premises where distilled spirits operations are carried on, or structure or place used in connection therewith for storage or other purposes; to make examination of the materials, equipment, and facilities thereon; and make such gauges and inventories as he deems necessary. Whenever any appropriate TTB officer, having demanded admittance, and having declared his name and office, is not admitted into such premises by the proprietor or other person having charge thereof, he may at all times, use such force as is necessary for him to gain entry to such premises.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1357, as amended (26 U.S.C. 5203))

§ 19.82 Detention of containers.

Any appropriate TTB officer may detain any container containing, or supposed to contain, spirits when such officer has reason to believe that the tax imposed by law on such spirits has not been paid or determined as required by law or this part, or that such container is being removed in violation of law or this part. Every such container may be held by the appropriate TTB officer at a safe place until it shall be determined whether the property so detained is liable by law to be proceeded